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6 **UNITED STATES DISTRICT COURT**

7 **CENTRAL DISTRICT OF CALIFORNIA**

8
9 THERESA BROOKE, a married woman
10 dealing with her sole and separate claim,

Case No:

11 Plaintiff,

VERIFIED COMPLAINT

12 vs.

(JURY TRIAL DEMANDED)

13 HERSHA HOSPITALITY
14 MANAGEMENT LP, a Pennsylvania
15 limited partnership,

16 Defendant.

17 Plaintiff Theresa Marie Brooke alleges:

18 **PARTIES**

19 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
20 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
21 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
22 California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
23 to the loss of a leg.

24 2. Defendant, Hersha Hospitality Management LP, owns and/or operates and
25 does business as the hotel Courtyard by Marriott Los Angeles Westside located at 6333
26 Bristol Parkway, Culver City, California 90230. Defendant's hotel is a public
27 accommodation pursuant to 42 U.S.C. § 12181(7)(A), which offers public lodging

1 services. On information and belief, Defendant's hotel was built or renovated after
2 March 15, 2012.

3 **JURISDICTION**

4 3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42
5 U.S.C. § 12188.

6 4. Plaintiff's claims asserted herein arose in this judicial district and
7 Defendant does substantial business in this judicial district.

8 5. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c)
9 in that this is the judicial district in which a substantial part of the acts and omissions
10 giving rise to the claims occurred.

11 6. Pursuant to *Arroyo v. Rosas*, supplemental jurisdiction is appropriate over
12 Plaintiff's Unruh claim. On a case-specific analysis, there are no compelling reasons to
13 decline jurisdiction.

14 **ALLEGATIONS**

15 7. Plaintiff alleges that Defendant's hotel does not have a compliant access
16 aisle at the passenger loading zone adjacent to the hotel lobby in violation of Section
17 503 of the 2010 Standards. An access aisle has specific requirements: It must be 60
18 inches wide and at least 20 feet long, it must have an accessible route adjoining it, and it
19 cannot be within a vehicular way. Section 503.3.

20 8. The requirement for an access aisle at a passenger loading zone is
21 immensely important for a person in a wheelchair such as Plaintiff, as it provides safe
22 access to the entry of the hotel and deters others from placing encumbrances or
23 obstacles there such as a vehicle parking. An access aisle is akin to a cross-walk for
24 pedestrians.

25 9. Plaintiff formerly worked in the hospitality industry and her husband
26 works in the travel industry. She and her husband are avid travelers to California for
27 purposes of leisure travel and to "test" whether various hotels comply with disability
28 access laws. Testing is encouraged by the Ninth Circuit Court of Appeals.

1 10. Plaintiff and her husband traveled to Blythe, the Desert Cities and Los
2 Angeles in late July for required hearings in the Central District and leisure travel. She
3 and her husband anticipate returning several times in the next few months for required
4 hearings, depositions and further testing. Plaintiff also has concrete plans to lodge at
5 Defendant's hotel in May 2023, but she will not honor her concrete plans if Defendant
6 has not provided notice of remediation by then.

7 11. During this trip, Plaintiff personally visited Defendant's hotel.
8 Defendant's hotel has a passenger loading zone because pickup and dropoff occurs
9 there and it is located directly outside of the lobby entrance. There are also design
10 features showing an intent for utilization as a passenger loading zone. For example,
11 there is a *porte cochere*, which by definition is a design feature for passenger loading
12 zones.

13 12. While at Defendant's hotel, she discovered that Defendant's hotel has a
14 barrier to entry to the lobby, which is that the passenger loading zone does not have an
15 access aisle compliant with Section 503.3. It is an absolute requirement to have an
16 access aisle at a passenger loading zone pursuant to Section 503.3. The requirement of
17 an access aisle at a passenger loading zone relates to Plaintiff's disability of not having
18 one leg and being forced to use a wheelchair because access aisles are required so
19 persons in a wheelchair can maneuver without threat of danger from other vehicles and
20 without other encumbrances blocking their pathway. The lobby, therefore, is
21 inaccessible to Plaintiff by way of the passenger loading zone because there is no access
22 aisle.

23 13. Plaintiff gained actual and personal knowledge of a barrier while visiting
24 Defendant's hotel (no access aisle at passenger loading zone), and as a result, she was
25 deterred from entering the hotel. She will only return to the hotel if Defendant puts the
26 required access aisle into place. Visiting otherwise would be futile because the lack of
27 the access aisle represents a barrier to entering the lobby.

28

14. It is readily achievable to modify the hotel to provide an access aisle. Provision of an access aisle is extremely inexpensive; it involves painting and measuring tools.

15. Without injunctive relief, Plaintiff and others will continue to be unable to independently use Defendant's hotel in violation of her rights under the ADA.

FIRST CAUSE OF ACTION

16. Plaintiff incorporates all allegations heretofore set forth.

17. Defendant has discriminated against Plaintiff and others in that it has failed to make its public lodging services fully accessible to, and independently usable by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and § 121282(b)(2)(iv) and the 2010 Standards, as described above.

18. Defendant has discriminated against Plaintiff in that it has failed to remove architectural barriers to make its lodging services fully accessible to, and independently usable by individuals who are disabled in violation of 42 U.S.C. §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the 2010 Standards would neither fundamentally alter the nature of Defendant's lodging services nor result in an undue burden to Defendant.

19. In violation of the 2010 Standards, Defendant's hotel passenger loading zone does not have a disability access aisle compliant with Section 503.3 of the Standards.

20. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards, as described above, is readily achievable by the Defendant. *Id.* Readily achievable means that providing access is easily accomplishable without significant difficulty or expense.

21. Defendant's conduct is ongoing, and Plaintiff invokes her statutory right to declaratory and injunctive relief, as well as costs and attorneys' fees.

1 22. Without the requested injunctive relief, Defendant's non-compliance with
2 the ADA's requirements that its passenger loading zone be fully accessible to, and
3 independently useable by, disabled people is likely to recur.

4 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 5 a. Declaratory Judgment that at the commencement of this action Defendant
6 was in violation of the specific requirements of Title III of the ADA
described above, and the relevant implementing regulations of the ADA;
- 7 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
8 36.504(a) which directs Defendant to take all steps necessary to bring its
9 passenger loading zone into full compliance with the requirements set
forth in the ADA;
- 10 c. Payment of costs and attorney's fees;
- 11 d. Provision of whatever other relief the Court deems just, equitable and
appropriate.

12 **SECOND CAUSE OF ACTION**

13 23. Plaintiff realleges all allegations heretofore set forth.

14 24. Defendant has violated the Unruh by denying Plaintiff equal access to its
15 public accommodation on the basis of her disability as outlined above.

16 25. Unruh provides for declaratory and monetary relief to "aggrieved
17 persons" who suffer from discrimination on the basis of their disability.

18 26. Plaintiff has been damaged by the Defendant's non-compliance with
19 Unruh.

20 27. Pursuant to Cal Civ. Code §52, Plaintiff is further entitled to such other
21 relief as the Court considers appropriate, including monetary damages in an amount of
22 \$4,000.00, and not more.

23 28. Pursuant to Unruh, Plaintiff is entitled to attorney's fees and costs in an
24 amount to be proven at trial.

25 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 26 a. Declaratory Judgment that at the commencement of this action Defendant
27 was in violation of the specific requirements of Unruh; and

- b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR § 36.504(a) which directs Defendant to take all steps necessary to bring its passenger loading zone into full compliance with the requirements set forth in the ADA;
 - c. Payment of costs and attorney's fees;
 - d. Damages in the amount of \$4,000.00; and
 - e. Provision of whatever other relief the Court deems just, equitable and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on issues triable by a jury.

RESPECTFULLY SUBMITTED this 4th day of October, 2022.

/s/ P. Kristofer Strojnik
P. Kristofer Strojnik (242728)
Attorneys for Plaintiff

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 4th day of October, 2022.

Theresa Marie Brooke